



## Congo, Republic of

### Country Reports on Human Rights Practices - [2003](#)

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The Republic of Congo<sup>1</sup> is ruled by a government in which most of the decision-making authority is vested directly in the President and his administration. Denis Sassou-Nguesso was elected President in March 2002, and, in May and June 2002, legislative elections were held for the Senate and the National Assembly in all jurisdictions, except for the Pool region where an insurgency was most active. The President's Congolese Workers' Party (PCT) won the legislative elections and controlled 129 seats in the 137-seat National Assembly. Both the presidential and legislative elections were determined "not to contradict the will of the people" by independent monitors; however, there were some flaws and irregularities in the administration of the elections, which caused lingering credibility questions about the Government by opposition members and some persons in the international and local nongovernmental organization (NGO) communities. Because of security problems, elections in some jurisdictions in the Pool region had not yet been held. Until March, antigovernment Nsiloulou Ninja militiamen operated principally in the northern and central Pool regions and the conflict intensified. On March 17, the Government and the Ninjas signed a peace accord in which the Ninjas would have political representation in the southern Pool region and begin a disarmament, demobilization, and reintegration (DDR) program. At year's end the DDR program had not begun. There were some improvements in the rule of law and parliamentary oversight during the year; however, the judiciary remained corrupt, overburdened, underfinanced, and subject to political influence.

The security forces include the police, the Gendarmerie, and the armed forces; however, the functional distinction between these forces is not always clear. In theory, the police respond first to security incidents, with gendarmes and army units intervening later if necessary; however, in practice overlapping operations were common. At times, the Government did not have full control over some members or units of the security forces. The Angolan armed forces, under a bilateral agreement to provide security, had departed by year's end. Some members of the security forces committed serious human rights abuses.

The economy, which was in transition from a state-directed economy to a market-oriented economy, suffered serious revenue losses by year's end, mostly from a drop in oil prices and in revenue from the non-oil sector. However, oil exports remained the country's main sources of foreign exchange. Approximately 70 percent of the population lived in poverty. Lack of transparency and inefficient government operations hindered rehabilitation and development.

The Government's human rights record remained poor; although there were some improvements in a few areas, serious problems remained. At times during the year, security forces were responsible for unlawful killings, as well as summary executions, rapes, beatings, physical abuse of detainees and citizens, arbitrary arrest and detention, looting, and solicitation of bribes and theft. Prison conditions were poor. The judiciary was unable to ensure fair and expeditious trials. The Government controlled most domestic broadcast media; however, one private radio station and one private television station began broadcasting during the year. There were some limits on freedom of movement. Domestic violence and societal discrimination against women were problems. Discrimination on the basis of ethnicity remained widespread, including against minority indigenous Pygmies. Child labor was a problem. After the signing of the March Peace Accord, there were no reports of the recruitment of child soldiers. There were reports of trafficking in persons. Citizens sometimes resorted to vigilante justice and killed suspected criminals.

In 2002, there were reports that rebel militias under Pasteur Ntumi, known as the "Ninjas," committed serious human rights abuses; however, there were fewer reports after the signing of the March 17 Peace Accord.

## RESPECT FOR HUMAN RIGHTS

### Section 1 Respect for the Integrity of the Person, Including Freedom From:

## a. Arbitrary or Unlawful Deprivation of Life

There were no reports of political killings; however, there were press reports that government forces killed civilians in the Pool region prior to the March signing of the Peace Accord between the Government and anti-government Ninja rebels. These reports indicated, that during the Government's attempts to fight the rebels, particularly when using air power, civilians were killed in the crossfire. Since the signing of the Peace Accord, there were reports that either uncontrolled security forces or Ninja elements committed unlawful killings against civilians in the Pool region. In October, five civilians died in a clash between government soldiers and Ninja rebels. In December, "uncontrolled" Government military forces launched an attack against Ntumi's Ninja elements in the BaCongo area of Brazzaville, killing six Ninjas. Also, a pro-government militia member, who was arrested because of his reported involvement in the December attacks against Ninjas members in Brazzaville, died while in the hospital in the presence of the General Prosecutor. According to the Government, he reportedly died of injuries sustained when he resisted arrest.

There was no action taken against security forces who reportedly summarily executed several soldiers for killing an entire family in 2002.

No action was taken, nor is any likely to be taken, against members of the security forces responsible for the 2001 killing of a suspected thief and the 2001 killing of a person believed to have threatened the security of a government minister.

From March 2002 until March, prior to the signing of the Peace Accords, Ninja forces reportedly killed many civilians during raids against villages in the Pool Region. In February, Ninjas attacked a freight train between Brazzaville and Pointe Noire. Also in February, Ninjas killed 10 civilians and a police commissioner in an attack on a police station in Yambu, Bouenza Province. Ninjas under Pasteur Ntumi also were reportedly responsible for robbery, intimidation, and looting villages from September until the year's end.

As part of the March Peace Accords, amnesty was provided to all Ninja rebels who fought against the Government, and an exchange of prisoners took place in May. The amnesty remained in effect, and all prisoners had been exchanged by year's end.

There were no developments in the 2002 alleged kidnapping and killing of a French priest by Ninja rebel militia members.

There continued to be occasional deaths due to mob violence, as civilians took vigilante action against presumed criminals, or as individuals settled private disputes; however, police at times intervened to stop such action. For example, in two incidents, longtime Rwandan storekeepers were attacked over private disputes, with one Rwandan killed.

## b. Disappearance

There were no reports of politically motivated disappearances during the year.

During the year, daughters of two different employees of the same local NGO were reported missing. One was returned within 2 days; however, the other remained missing at year's end.

The whereabouts of at least 20 young men suspected of supporting the Ninja militia who were arrested in July 2002 remained unknown, and no known government action was taken by year's end.

A special commission of the National Transitional Council (CNT) investigated allegations that 353 young men who took refuge in the Democratic Republic of the Congo in 1999 were separated from their families by security forces upon returning to Brazzaville in May 1999 and subsequently disappeared. The Commission submitted its report, which included other disappearances due to civil hostilities since 1993, to the Ministry of Justice in August 2002, shortly before the CNT was dissolved and the newly elected National Assembly inaugurated. The Commission's report had not been made public by year's end; however, during the year, government officials implicated in the alleged disappearances spoke out in the press describing their view of events, claiming that they were not involved and do not know what happened to those who disappeared. In 2001, families of the disappeared filed suit in the International Court of Justice (ICJ) in Brussels accusing members of the Government, including President Sassou, of crimes against humanity. In 2002, a French court began an investigation into the case. In December 2002, the Government filed suit in the ICJ to prevent French courts from exercising jurisdiction over members of President

Sassou's government. In June, the ICJ rejected the Government's request for an injunction; however, the Government was given until year's end to provide more persuasive arguments. The case was pending at year's end.

#### c. Torture and other Cruel and Inhuman Treatment or Punishment

The Constitution prohibits acts of torture and cruel, inhuman, or degrading treatment; however, in practice, security forces sometimes used beatings to coerce confessions or to punish detainees. During the year, there were reports that abuses continued in the jail system; however, there were fewer reports that the security forces committed acts of extortion than in 2002. Some international organizations such as the U.N. High Commissioner for Refugees (UNHCR) cited credible reports from refugees in the outlying areas that security forces regularly harassed and extorted refugee returnees and residents in outlying areas.

In September, persons who identified themselves as members of the security forces reportedly attacked and robbed a Congolese participant on his way to participate in an international conference; however, it was unclear if they were members of the security forces or criminal elements posing as security forces.

In addition, there were reports that elements of Ntumi's Ninjas also were engaged in extortion and harassment.

During the year, there were reports that female detainees were raped and that members of the security forces beat citizens and, on occasion, looted their homes. No action was taken against those responsible for such abuses by year's end.

Until March, there were reports that undisciplined government forces committed abuses such as summary executions, rape, looting, and other violent acts, primarily in the Pool region but also in Brazzaville. In the Pool region, government forces allegedly included Angolan soldiers and government-sponsored mercenaries of Rwandan origin who reportedly severely mistreated the local population. There were reports that elements of Ntumi's Ninja rebels also engaged in similar acts against the civilian population. However, since the March Peace Accord, such reports diminished significantly, except between August and November when there were reports of a train robbery, village lootings, small clashes between security forces and Ninja elements, and harassment of international NGO workers. There were reports by NGOs and members of the private sector that these incidents were perpetrated both by uncontrolled members of the security forces and Ninja rebels.

There was no action taken by year's end against the soldiers responsible for the April 2002 robbing, beating, and, in some cases, raping of fleeing citizens in Brazzaville.

There were no developments, nor were any likely, in the August 2001 case in which dissatisfied soldiers threw a grenade at the home of the Defense Minister.

Prison conditions remained poor due to overcrowded facilities and scarcity of resources to provide food or health care to the inmates. Prisons functioned in Brazzaville, Pointe Noire, and, to a lesser degree, in the smaller, more remote towns of Owando, Ouessou, and Djambala. The Ministry of Justice continued to repair some prisons during the year; however, lack of funds hindered efforts to improve physical facilities and to provide food and medicine.

During the year, there continued to be reports that detainees held at police stations often were subjected to beatings, overcrowding, extortion, and other cruel, inhuman, or degrading treatment.

Women were incarcerated with men, and juveniles were held with adults. Pretrial detainees were detained with convicted prisoners.

Access to prisons and detention centers by domestic and international human rights groups continued to be granted. Local human rights groups, including the Congolese Observatory for Human Rights, the Association for the Human Rights of the Incarcerated, the National Counsel for the Promotion and Protection of the Rights of Detained Persons, and a Catholic Church organization visited prisons during the year. The International Committee of the Red Cross (ICRC) continued regular visits to prisons and detention centers throughout the country.

#### d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention; however, security forces frequently committed such acts. For example, in February, security forces arrested and beat a teacher in Pointe Noire over a personal dispute with a friend of a police captain. The teacher filed a lawsuit, but no action was taken at year's end. In August, security

forces in Brazzaville arrested and detained a bricklayer for arguing with his wife. He was detained for 2 days, subjected to beatings, and paid \$50 (25,000 CFA francs) to be released. He was not officially charged with a crime.

Police and the gendarmerie are responsible for maintaining domestic order. Although the Human Rights Commission was established for the public to report abuses, impunity for security forces who committed abuses and a lack of transparency remained a serious problems. In late December, the Government began a security and anti-crime campaign called Operation Hope, whose goal was to reduce the amount of insecurity, local drug use, and crime in the country. The campaign is expected to continue through March 2004. During the year, the U.N. and the ICRC provided resources for human rights training for police officers.

The Code of Penal Procedure requires that a person be apprehended openly, that a lawyer be present during initial questioning, that warrants be issued before arrests are made, and that detainees be brought before a judge within 3 days and either charged or released within 4 months. In practice, the Government often violated these legal provisions. Detainees usually were informed of the charges levied against them, and lawyers and family members usually were given access to them. There is a system of bail called a "caution"; however, more than 70 percent of the population has an income below poverty level and could not afford to pay bail.

The Constitution prohibits forced exile; however, the Government blocked the return of some citizens. For example, some officials of the previous government, including former President Lissouba and former Prime Minister Kolelas, remained outside the country. In September, Kolelas attempted to return but the Government closed the airport and the entry point on the Congo River from Kinshasa, Democratic Republic of the Congo. During a second attempt on December 6, Kolelas was turned back at the airport in Kinshasa and returned to Nairobi, Kenya.

#### e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, although there has been some improvements during the year, such as the formation of a High Court, a Constitutional Court, and some parliamentary scrutiny over judicial actions, in practice the judiciary continued to be corrupt, overburdened, underfinanced, and subject to both political influence and bribery. Lack of resources continued to be a severe problem; almost nothing remained of judicial records, case decisions, and law books following the looting during the civil wars of the late 1990s. The Ministry of Justice completed rehabilitation of its courthouses during the year.

The judicial system consists of local courts, courts of appeal, the Supreme Court, and traditional courts. In addition, two new judicial bodies were added under the new Constitution. By September, both the Constitutional Court, whose function is adjudicate the constitutionality of laws and judicial decisions, and the High Court of Justice, which also is to review judicial decisions as well as try the President and other high authorities for crimes in the conduct of their official duties, were operational.

In general defendants are tried in a public court of law presided over by a state-appointed magistrate. The defense has access to prosecution evidence and testimony and the right to counter it. In formal courts, defendants are presumed innocent and have the right of appeal; however, the legal caseload far exceeded the capacity of the judiciary to ensure fair and timely trials. Some cases never reached the court system.

The Government established military tribunals to try soldiers for abuses committed during periods of conflict. During 2002, the tribunals were active; however, the sessions were not public. During the year, there was one report of a military tribunal to review actions by "uncontrolled elements" of the Republican Guard reportedly involved in the December attacks against the Ninjas in BaCongo. The results of the tribunal were unknown at year's end.

In rural areas, traditional courts continued to handle many local disputes, particularly property and probate cases, and domestic conflicts that could not be resolved within the family.

There were no reports of political prisoners.

#### f. Arbitrary Interference with Privacy, Family, Home or Correspondence

The Constitution prohibits such actions; however, in practice security forces at times illegally entered, searched, and looted private homes. During the year, military, gendarmerie, and police forces occasionally beat civilians and looted their homes sometimes in revenge for complaints filed against them by the civilians. In the areas of the Pool, where security forces were fighting the Ninjas, reports of such behavior by security forces were common until

March; however, such reports diminished after the signing of the March Peace Accord. Early in the year, there also were similar reports of intimidation and harassment by the Ninjas of Pasteur Ntumi, which subsequently diminished after the March Peace Accord; however, in October and November, intimidation and harassment by either uncontrolled Ninja or security force elements increased according to reports from some international NGOs (see Sections 2.d. and 4).

Citizens generally believed that the Government monitored private mail and telephone communications; however, there were no reports that security forces arrested persons due to the content of their private communications.

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, although the Constitution also criminalizes certain types of speech such as incitement to ethnic hatred, violence, or civil war, and the Government generally respected these rights. The Press Law allows for monetary penalties for defamation and incitement to violence but no longer requires prison terms for violators. The law also applies to the Internet and business public relations operations.

There was no state-owned newspaper; however, there were several closely allied with the Government. There were 15 to 20 private newspapers that appeared weekly in Brazzaville. Some of these newspapers take editorial positions critical of the Government and print articles disparaging authorities. Newspapers continued to publish on occasion open letters written by opponents of the Government who were in prison or lived abroad. The print media did not circulate widely beyond Brazzaville and the commercial center of Pointe Noire; however, it reached approximately two-thirds of the population.

Most citizens obtained their news from the radio or television broadcast media, primarily government-controlled radio. There was one privately owned radio station and one privately owned television station, which began operations during the year. There were two government-owned radio stations, Radio Congo and Radio Brazzaville and one television station, Tele Congo. There were several satellite television connections available, which permitted viewing of a range of news and entertainment programs. The news coverage and the editorial positions of the state-owned media reflected government priorities and views. A number of Brazzaville-based journalists represented international media, such as the British Broadcasting Corporation (BBC), Associated Press, Reuters, Voice of America (VOA), and TV5.

A local FM radio station rebroadcast Radio France International, VOA, and the BBC. Radio and television broadcasts from the Democratic Republic of the Congo were received in Brazzaville. The private independent radio station, Radio Liberte, continued to broadcast as well as the new privately owned radio station DR-Radio. Local rebroadcasts of the Gabon-based Africa Number One also continued during the year. A Christian missionary group in Pointe Noire broadcast during daylight hours; it voluntarily provided its material to the Government prior to broadcast.

Government broadcast media primarily focused their attention on the activities of government officials, but also provided news on other activities by international and local NGOs. During the year, the broadcasts included airing of alternative political views of some opposition members in talk show format, but overall opposition political parties did not have access to the government-controlled media. Following the August 14 National Day speech, President Sassou held his first Western-style press roundtable, answering questions from both government and independent media. The event was covered on national television and radio.

The Government did not restrict access to the Internet. Internet service was available through two private companies in Brazzaville and two companies based in Kinshasa, Democratic Republic of the Congo. Several Internet cafes also provided access, and private persons with enough resources could access the Internet directly via satellite and service providers in Brazzaville, Pointe Noire, or the Democratic Republic Of The Congo.

The Government did not restrict academic freedom. However, there were several informal disputes at the Marion Ngoubi University. In one incident, students demanded payment of their scholarships, and, in another incident in September, teachers demanded payment of their salaries (see Section 6.b.). Other disputes involved students and teachers asking for replacement of the university rector due to his alleged corruption.

### b. Freedom of Peaceful Assembly and Association

The Constitution provides for the freedoms of assembly and association, and the Government generally respected these rights in practice. Groups that wished to hold public assemblies were required to inform the Ministry of Territorial Administration, which could withhold authorization for meetings that threatened public order. Political parties and civic associations held numerous meetings during the year. Public demonstrations were less common; however, in September, an opposition rally took place 2 weeks after permission was at first denied by the Minister of Territorial Administration. Nearly 3,000 persons attended, and a joint statement was issued by the opposition calling for freedom for exiles to return and more transparency in the oil sector. In December, there was one small public demonstration by former employees of the National Office of Post and Telecommunications (ONPT) seeking back pay (see Section 6.b.).

The law permits associations, political parties, and other groups to form freely, provided that they respect principles of sovereignty, territorial integrity, national unity, and democracy. All groups, political, social, or economic, were generally required to register with the Ministry of Territorial Administration. Registration was not routine and was subject to political influence. No political parties were banned or suspended. The parties of some prominent leaders of the former government continued to operate and hold seats in Parliament, although some party leaders remained in exile.

#### c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

For a more detailed discussion, see the [2003 International Religious Freedom Report](#).

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights; however, in practice, the Government imposed some limitations. During the year, military and police checkpoints, which at times interfered with the movement of civilians, were instituted in connection with reports that opposition exile leader and former Prime Minister Bernard Kolelas was planning to return to the country (see Section 1.d.) and during the December attacks on Ninja elements in BaCongo. There were fewer reports of extortion during the year; however, there were reports that soldiers dressed as civilians extorted money from persons on trains carrying goods. In 2002, the Government restricted the movement of persons and organizations to the Pool region, due to the security situation; however, after the March Peace Accord, these restrictions were eased somewhat and citizens, as well as international and local NGOs, returned sporadically to certain accessible areas of the Pool region. By year's end, harassment and intimidation of international organizations was renewed by either uncontrolled elements of the Ninjas or security forces, and some organizations withdrew their expatriate staff from areas in the Pool region where projects had earlier been restarted.

Approximately 100,000 persons who had fled the fighting in the Pool region were internally displaced persons (IDPs) either in IDP camps outside Brazzaville or with families in Brazzaville at the end of 2002. At year's end, the Government, working with international and local NGOs, was assisting IDPs in returning to their villages in the Pool region and the number of IDPs had dropped to 6,000. A government pilot project with assistance from international organizations to provide food, shelter, clinics, and other resources to some accessible Pool region villages had not begun by year's end.

During the civil conflicts, tens of thousands of citizens fled into neighboring countries, particularly Gabon and the Democratic Republic of the Congo. Approximately 45,000 persons fled to Bas-Congo province, Democratic Republic of the Congo; however, all but approximately 5,000 had been repatriated to the country by the end of 2002. According to UNHCR, there were 803 returnees from the Democratic Republic of the Congo and 871 returnees from Gabon during the year. Approximately 15,000 citizens fled to Gabon and, according to U.N. figures, 9,000 persons remained, some of whom met with the UNHCR to consider repatriation under the Tripartite Agreement between the Government of the Republic of Congo, the Government of Gabon, and the UNHCR. The UNHCR in Gabon estimated that there were 13,400 Congolese refugees and another 5,700 Congolese asylum seekers currently in Gabon. According to the UNHCR office in Brazzaville, fewer than 700 such persons had returned to the country by year's end given that many had been fully integrated into Gabonese society.

The Constitution provides for the granting of asylum or refugee status to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee status or asylum. The country continued to host a few persons from the Central African Republic, a small number of Burundians, and approximately 3,000 mainly Hutu Rwandans, who remained within distinct Rwandan sectors and communities within villages or cities. At year's end,

there was only one camp of less than 300 Hutu Rwandans located north of Brazzaville. The UNHCR reported that all Central African Republic refugees had returned home by year's end. During the year, UNHCR continued some assistance to Angolan refugees in Pointe Noire; however, most Angolan refugees either returned to Angola or were integrated into local communities.

In April 2002, authorities arrested and repatriated forcibly to the Democratic Republic of the Congo 19 asylum seekers. Some of these individuals had refugee status applications pending with the UNHCR; however, none had been granted formal refugee status by the UNHCR because of their possible involvement in human rights abuses as members of the former Zairian President Mobutu's army and security forces known as Ex-FAZ. Ex-FAZ families and colleagues, who had received provisional refugee status, remained in the country. At year's end, the Government and the Government of the Democratic Republic of the Congo had reached an agreement on repatriating members of the Ex-FAZ under the auspices of the International Office of Migration, although it is reported that only 1,200 of the reported 4,000 wish to return to Democratic Republic of the Congo. The repatriation process had not begun by year's end.

The Government also provided temporary protection to certain individuals who fall outside of the definition of the 1951 U.N. Convention Related to the Status of Refugees and its 1967 Protocol.

### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

With a Constitution and the holding of elections in 2002, citizens generally had the right to change their government peacefully. Independent observers determined that the 2002 presidential and legislative elections held over a period of nearly 6 months in two rounds per election did "not contradict the will of the people," despite obvious flaws like insufficient numbers of ballots at certain polling stations, confusion over their locations, and the boycott by some opposition members who claimed the elections were biased to ensure the victory of the President and his party. There were a few reports of intimidation of candidates and voters, and the opposition allegedly was responsible for about 40 percent of the incidents. In addition, the Constitution and the elections also were viewed by some international NGOs and foreign observers as designed to protect the status quo. The elections remained incomplete at year's end, since they had not taken place in the Pool region, and there were eight vacant seats in Parliament.

The Constitution gives the President strong executive powers. He presides over the Council of Ministers and proposes legislation. The President also directly appoints three members of the nine-person Constitutional court from a list of names recommended to him by members of his Council of Ministers, and the President of the Republic names the Court's president from among its members. Although the National Assembly votes on the budget, most of the daily responsibility for government operations resided with the executive branch. The President can decree a budget that the National Assembly has twice rejected.

The state remained highly centralized under the President; key regional and local leaders are appointed by the President. Sub-national government entities lacked an independent revenue base and did not represent a significant check on central authority.

Major political parties included the ruling PCT, the Pan-African Union for Social Democracy, the Congolese Movement for Democracy and Integrated Development, the Union for Democracy and the Republic, and the Rally for Democracy and Social Progress. There were as many as 200 other parties; however, most generally were ineffective. Some party leaders remained in exile while other party officials willing to cooperate with the Government or to oppose it nonviolently remained in the country. There was no cohesive opposition, and many of the smaller political parties were more personality-centered than they were representative of a significant constituency. During the year, several opposition parties held a joint rally (see Section 2.b.).

The law permits the Government to exclude persons found guilty of genocide, war crimes, or crimes against humanity from the political process, such as former President Lissouba and former Prime Minister Kolelas.

There were no legal restrictions on political participation by women or minority populations. There were 9 women in the 66-seat Senate and 12 women in the 137-seat National Assembly. There were five female ministers, including the Minister of Agriculture, Commerce, Primary and Secondary Education, Social Affairs, and Minister Delegate of Agriculture and Women's Issues in the 33-member Cabinet. There was one female candidate in the 2002 presidential election.

Pygmies continued to be excluded from social programs and the political process, in part due to their isolation in remote forested areas of the country. The Cabinet included members of many ethnic groups from all areas of the

country. Many key posts were held by northerners, including many members of the President's Mbochi ethnic group. Members of ethnic groups, who did not support the Government during the war, have been permitted to return to their former government jobs, and a number of southerners were in the Cabinet.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were uncooperative and unresponsive to human rights groups.

At least two international organizations that began some operations in selected areas of the Pool region in August and September had pulled out international staff because of harassment by uncontrolled elements of Ninjas or security forces by year's end.

The ICRC maintained an office in Brazzaville. Access improved for humanitarian officials during the year.

The Constitution provides for the establishment of an autonomous Human Rights Commission, which was established in August. Its purpose is to act as a watchdog on the Government and react to public concerns on human rights issues.

#### Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution specifically prohibits official discrimination; however, societal discrimination persisted, particularly against women and Pygmies. Ethnic and regional differences continued.

##### Women

Domestic violence against women, including rape and beatings, was widespread but rarely reported. Domestic violence usually was handled within the extended family, and only the more extreme incidents were brought to the police. There were no specific provisions under the law for spousal battery, apart from general statutes prohibiting assault. Rape is illegal, and widespread rape during the 1998-1999 civil conflict raised public awareness of violence against women. During the year, the Government began compiling nationwide data on violence against women; however, no figures were available by year's end. NGOs, such as the local Human Rights Center, Violence Against Women Group, the International Rescue Committee, the ICRC, and Doctors Without Borders, continued to draw attention to the issue and provided counseling and assistance to victims.

Female genital mutilation (FGM) was not practiced indigenously, but may have occurred in some of the small immigrant communities from countries where it was more common.

Prostitution is illegal but was an accepted practice in certain areas of Brazzaville, Pointe Noire, and other large cities.

The Constitution provides for the equality of all citizens, prohibits discrimination based on gender, and stipulates that women have the right to equal pay for equal work; however, in practice women were underrepresented in the formal sector. Most women worked in the informal sector and thus had little or no access to employment benefits. Women in rural areas especially were disadvantaged in terms of education and wage employment and were confined largely to family farming, petty commerce, and childrearing responsibilities. Many local and international NGOs have developed micro-credit and micro-finance programs to address this problem, and Government ministries such as Social Affairs and Agriculture were very active in addressing these problems. For example, women received assistance to set up dressmaking and beauty salons as well as gardening and manioc flour-making to provide an income for their families.

Marriage and family laws overtly discriminate against women. For example, adultery is illegal for women but not for men. Polygyny is legal; polyandry is not. While the Legal Code provides that 30 percent of the husband's estate is transferred to the wife, in practice, the wife often lost all rights of inheritance upon the death of her spouse, particularly in the context of traditional or common law marriage. The symbolic nature of the dowry set in the Family Code often was not respected, and men were forced to pay excessive bride prices to the woman's family. As a result, the right to divorce was circumscribed for some women because they lacked the financial means to reimburse the bride price to the husband and his family. This problem was more prevalent in rural areas than in



urban centers.

#### Children

The Government was committed to protecting the rights and welfare of children. The Constitution provides children equal protection under the law. Education was compulsory and tuition free until the age of 16; however, families were required to pay for books, uniforms, school fees, etc. Girls and boys attended primary school in equal numbers; however, school attendance by girls declined precipitously at the high school and university levels. In 1997, the literacy rate was 77 percent for the total adult population but only 70 percent for women. The adult literacy rate was unknown but was believed to be approximately 40 percent due to the widespread destruction of schools during the civil conflict of the late 1990s.

Teenage girls were often pressured to exchange sex for better grades, which resulted in both the spread of HIV/AIDS and unwanted and unplanned pregnancies.

FGM may be performed on girls in some immigrant communities (see Section 5, Women).

There were reports of isolated cases of child prostitution, particularly among the growing numbers of street children; however, the prevalence of the problem remained unclear.

Late in the year, there were a few reports that there was trafficking in children but not necessarily by citizens (see Section 6.f.).

Child labor was a problem (see Section 6.d.).

During the 1997-2001 civil conflict, there were reports that children were recruited as soldiers for service in the war in the Pool region by both government and Ninja forces. In addition, following the 2002 shootings in Brazzaville, there were unconfirmed reports of street children being recruited for military service in the Pool region. The Government denied that recruitment of child soldiers was authorized and stated its opposition to child soldiers; however, unofficial sources indicated that the children were not forced, but rather enticed by offers of money and new clothing. There were no such reports since the signing of the March Peace Accords. During the year, the local office of the International Labor Organization (ILO) formally launched a child soldier program.

There were indigent street children in Brazzaville, and their numbers have grown as a result of civil conflict since 1997. In addition, children from the Democratic Republic of the Congo easily crossed the river by stowing away on the ferry, which crossed several times per day, to seek improved living conditions. UNICEF estimated that at least 20 percent of street children in Brazzaville were from the Democratic Republic of the Congo; however, other NGO estimates were as high as 50 percent or more; children from the Democratic Republic of the Congo also were found in Pointe Noire. Street children were not known to suffer from targeted abuse by government authorities or vigilante groups; however, they were vulnerable to sexual exploitation and often fell prey to criminal elements including drug smugglers. Many of the street children beg or sell cheap or stolen goods to support themselves; some may have turned to prostitution or petty theft.

#### Persons with Disabilities

The Constitution prohibits discrimination based on physical condition; however, in practice, this prohibition generally was not enforced because the Ministry responsible for implementation of this provision lacked the necessary funds. There was no overt discrimination against persons with disabilities in employment and education. There were no laws mandating access for persons with disabilities.

#### Indigenous People

The Constitution prohibits discrimination based on ethnicity; however, the indigenous Pygmy ethnic group, who numbered in the tens of thousands and lived primarily in forest regions, did not enjoy equal treatment in the predominantly Bantu society. Pygmies were marginalized severely in the areas of employment, health, and education, in part due to their isolation in remote forested areas of the country and different cultural norms. Pygmies usually were considered socially inferior and had little political voice. Many of them were not aware of the concept of voting and had minimal ability to influence government decisions affecting their interests. During the year, human rights groups and environmentally focused NGOs addressed this issue, and there were seminars and programs on the rights of the Pygmies. In addition, Pygmy groups organized and worked with local NGOs. In

September, a national conference representing Pygmy groups was held in Brazzaville. By year's end, no census on the number of Pygmies living in the country had been conducted as requested by the Pygmies.

Many Pygmies, possibly including children, have been exploited as cheap labor and discriminated against in employment, education, and the health sector by Bantus; however, there was little information regarding the extent of the problems during the year.

#### National/Racial/Ethnic Minorities

The Constitution prohibits discrimination based on ethnicity; however, the Government did not enforce this prohibition effectively, and, in practice, many citizens believed that ethnic discrimination persisted. However, former civilian employees of the Government were encouraged to return to their former jobs even though they were from ethnic groups that opposed the Government during the civil war and the disturbances that followed. Unlike in previous years, there were no reports that security forces targeted "southern" men for arrest.

There are several major ethnic groups in both the southern and northern areas of the country, which used either Kutuba or Lingala as their lingua franca in addition to their distinct ethnic languages. The largest southern ethnic group was the Kongo; however, there were numerous other key groups, such as the Lari, Vili, Sundi, Bembe, and Bahangala that, along with the Kongo, make up half the country's population. Other major ethnic groups included the Teke and Ngangoula of the central region, comprising approximately 13 percent of the population, and Mbochi, Mboko, Mbety, Bomitaba, Lekoba, and Mbongo of the four northern regions, comprising approximately 12 percent of the population. Societal ethnic discrimination was prevalent among all ethnic groups, was evident in government and private sector hiring and buying patterns, and apparent in the effective segregation of many urban neighborhoods. The relationship between ethnic, regional, and political cleavages was inexact; however, supporters of the Government included persons from mostly, but not solely, northern ethnic groups, such as the President's Mbochi group.

#### Section 6 Worker Rights

##### a. The Right of Association

The Constitution and Labor Code provide workers with the right to associate and form unions, and workers exercised this right in practice. Any worker, except members of the security forces, which included police, gendarmerie, and armed forces, was free to join a union of his choice. There were two recognized trade unions, the Confederation Union of Congolese Workers and The Confederation of Autonomous Trade Unions. Most workers in the formal wage sector were union members, and unions made efforts to organize informal sectors such as agriculture and retail trade. However, most unionized workers also were active in the informal sector to supplement their income.

Employers were prohibited from discriminating against employees who join a union. There were no reported firings for union activities; however, salaries were withheld from teachers who attempted to strike.

Unions were free to affiliate with international trade unions, and they maintained cooperative accords with foreign trade union organizations, such as the ILO and the International Confederation of Free Trade Unions.

##### b. The Right to Organize and Bargain Collectively

The Labor Code allows for collective bargaining, and this right was generally respected and practiced freely. However, collective bargaining was not widespread due to the severe economic conditions. The Government set industry-specific minimum wage scales; however, unions usually were able to negotiate higher wages for their members.

The Constitution also affirms workers' right to strike, subject to conditions established by law. Unions were free to strike after filing a letter of intent with the Ministry of Labor, which began a process of non-binding arbitration under the auspices of a regional labor inspector from the Ministry. The letter of intent must include the strike date, at which time the strike legally may begin, even if arbitration is not complete. Employers have the right to fire workers if they do not give advance notice of a strike.

During the year, strikes and other work actions occurred. For example, a strike occurred in August when teachers of primary and secondary schools demanded payment of delinquent salaries and a salary increase. Many of the

teachers had not been paid for almost 3 years. In December, the former employees of the ONPT publicly demonstrated seeking back pay. These workers of the former state-run ONPT, which was replaced by a new state-run organization called the Society of Telecommunications of Congo (SOTELCO), claimed that SOTELCO only hired 300 of the 1,200 former ONPT workers and provided no severance payment to those not hired. During the President's New Year's Eve speech, he promised to pay 1 month's salary to those civil servants who were owed unpaid wages.

The Government and most labor organizations continued to observe a "social truce" during the period of post-conflict reconstruction. The Government accepted certain conditions, such as regularization of salaries and rehiring of certain workers in several sectors; these conditions continued to be observed. Civil service retirees received some bank and pension payments, but they were minimal.

There are no export processing zones.

#### c. Prohibition of Forced or Bonded Labor

The Constitution prohibits forced or bonded labor, including by children; however, such practices occurred. Bantus reportedly exploited Pygmies as indentured servants, possibly including children, although little information was available regarding the extent of the problem during the year.

#### d. Status of Child Labor Practices and Minimum Age for Employment

Child labor was a problem. Under the Constitution, children under age 16 are not permitted to work; however, in practice, this law generally was not enforced, particularly in rural areas and in the informal sector in cities. Children worked with their families on farms or in small businesses in the informal sector without government monitoring or supervision. The Ministry of Labor, which is responsible for enforcing child labor laws, concentrated its efforts only on the formal wage sector.

#### e. Acceptable Conditions of Work

The Constitution provides that each citizen has the right to remuneration according to his work and merit. The minimum wage was approximately \$100 (50,000 CFA francs) per month in the formal sector. The wage was not sufficient to provide a worker and family with a decent standard of living. High urban prices and dependent extended families obliged many workers, including teachers and health workers, to seek secondary employment beyond their principal employment, mainly in the informal sector.

The Labor Code stipulates that overtime must be paid for all work in excess of 40 hours per week and that regular days of leisure must be granted by employers.

Although health and safety regulations require twice yearly visits by inspectors from the Ministry of Labor, in practice such visits occurred less regularly. Unions generally were vigilant in calling attention to dangerous working conditions; however, the observance of safety standards often was lax. Workers have no specific right to remove themselves from dangerous working conditions without risking loss of employment.

Legal foreign workers were protected by the same law that protected citizen workers; illegal workers were not protected by the law and faced deportation.

#### f. Trafficking in Persons

The law does not specifically prohibit trafficking in persons, and there were reports that persons were trafficked to, from, or within the country. The country has a large West African community, and local NGOs working on trafficking claimed that members of the West African community were either responsible for or involved in trafficking incidents, but this has not been confirmed.

An ILO study conducted in 2000 in Yaounde, Douala, and Bamenda, Cameroon indicated that regional traffickers transported children between the Republic of Congo, and Nigeria, Benin, Niger, Chad, Togo, and the Central African Republic, through Cameroon.

During the year, local NGOs became more focused on this problem with programs and projects. The Ministry of Social Affairs supported local NGO efforts. A foreign government has provided funding for a countrywide

information campaign on the issue of trafficking in children.

There were reports of isolated cases of child prostitution (see Section 5).

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<sup>1</sup>The United States Embassy closed its facilities in the country during the 1997 civil war and subsequent years of instability. During those years, it operated out of the United States Embassy in Kinshasa, the Democratic Republic of the Congo; however, in late 2001, operations were no longer considered "suspended", and American diplomats resumed working in the Republic of Congo only on a temporary duty basis. There is no American chancery or office space in the country. American diplomats are assigned to Kinshasa and travel by boat to Brazzaville for temporary duties.